

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ARMANDO LEZA,	§	
Petitioner,	§	
	§	
v.	§	No. 5:17-CV-00101-FB
	§	*CAPITAL CASE*
BOBBY LUMPKIN,	§	
Director, Texas Department	§	
of Criminal Justice,	§	
Correctional Institutions Division,	§	
Respondent.	§	

**RESPONDENT LUMPKIN'S MOTION
FOR EXTENSION OF TIME**

Petitioner Armando Leza was convicted and sentenced to death for the brutal murder of Caryl Allen while in the course of committing robbery. Leza has filed a federal habeas petition challenging his conviction and sentence in this Court pursuant to 28 U.S.C. §§ 2241 & 2254. Docket Entry (DE) 50. The Director has answered. DE 61. On August 24, 2020, Leza filed a motion for discovery. DE 67. Under Western District Local Rule 7(e)(2), a response to this non-dispositive motion is due seven days after the motion is filed, or by August 31, 2020. For the following reasons, the undersigned attorney respectfully requests forty-five additional days, or until October 15, 2020, to file his response.

Although Leza's motion is not particularly long, the undersigned has commitments in other cases for the next thirty to forty days that preclude him

from drafting a response to the instant motion. First, the undersigned is currently in the process of reviewing and redacting a lengthy prosecution's file in *State v. Gonzales*, Cause No. D-23,730, for the purpose of turning over that record to Gonzales's counsel. The undersigned attorney is attorney pro tem in that case for the State of Texas. It will likely take the undersigned an additional few weeks to complete this project. The undersigned also had a telephonic hearing before the trial judge in this same case on August 27, 2020. Second, the undersigned has a response to a motion for a certificate of appealability due in the Fifth Circuit on September 23, 2020, in *Bess v. Lumpkin*, No. 20-70006. It will take the undersigned a few weeks to draft and file a response in opposition. And because this involves an appeal, the undersigned must draft and submit an appellate memo to his division chief, pursuant to division rules, before drafting the response. Third, the undersigned has a response to a Rule 59(e) motion due on September 24, 2020, in *Harper v. Lumpkin*, No. 4:16-cv-00762 (S.D. Tex.), which the undersigned may have to extend if he is unable to complete the response in *Bess v. Lumpkin*.

Due to these commitments, the undersigned needs additional time to review Leza's motion and file an appropriate response. This request is not intended for the purpose of delay but to ensure that a proper response in opposition is filed. Counsel for Leza, Brad Levenson, is not opposed to this motion.

CONCLUSION

The Director moves this Court for an extension of forty-five (45) days from August 31, 2020, up to and including October 15, 2020, within which to respond to Leza's motion.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

MARK PENLEY
Deputy Attorney General for
Criminal Justice

EDWARD L. MARSHALL
Chief, Criminal Appeals Division

/s/ Erich Dryden
*ERICH DRYDEN
Assistant Attorney General
State Bar No. 24008786

*Attorney-in-Charge

P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
(512) 936-1400
(512) 320-8132 (Fax)

ATTORNEYS FOR RESPONDENT

CERTIFICATE OF CONFERENCE

I do hereby certify that I have contacted Brad Levenson, counsel for the Petitioner, and he is not opposed to the instant motion.

/s/ Erich Dryden
ERICH DRYDEN
Assistant Attorney General

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing Respondent Lumpkin's Motion for Extension of Time has been served electronically to Brad Levenson, Erik Guenther, and Katherine Tanaka, counsel for the Petitioner, on this the 27th day of August, 2020.

/s/ Erich Dryden
ERICH DRYDEN
Assistant Attorney General